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CHAPTER 35: SMOKE DETECTORS

- 35-1. APPLICABILITY. In order to meet Housing Quality Standards (HQS) and regulatory requirements, after October 30, 1992 at least one smoke detector is required on each level of a rental dwelling unit assisted or insured by HUD. Off-line units not meeting minimum requirements as set forth in this Chapter must be brought into compliance. Unit and physical inspections undertaken after the above mentioned date are subject to the requirements of this Chapter. Compliance with smoke detector requirements shall be checked during the course of unit inspections for assisted projects or physical inspections for insured projects and/or through management reviews.
- 35-2. CLARIFICATION ON APPLICABILITY.
- A. Smoke detectors are already required in all units owned by HUD or for which HUD is the mortgagee-in-possession. By regulation published July 30, 1992 (57 FR 33846), smoke detector requirements are now extended to all HUD-associated rental units.
  - B. Assisted properties include those that are insured or non-insured, and are receiving mortgage assistance (221(d)(3) BMIR, 236 Interest Reduction payments, direct loan) and/or rental assistance (Section 8, Rent Supplement and Rental Assistance payments). This Chapter applies to the entire assisted portfolio.
  - C. Section 202 Direct Loan and Section 202 and 811 Capital Advance projects are "assisted" and are covered under this Chapter.

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- D. "Assisted" also includes non-insured/state agency projects. State housing agencies are the subsidy contract administrators for these conventionally financed projects. Because these projects receive rental assistance (Section 8), they are bound by the requirements of this Chapter.
  - E. Likewise, FmHA projects receiving Section 8 assistance are subject to the requirements of this Chapter.
  - F. The insured portfolio covers any project mortgage insured under a multifamily section of the National Housing Act. The provisions of this Chapter apply to multifamily rental projects, cooperatives, and care-type properties insured by HUD.
  - G. Projects with HUD-held mortgages are subject to the requirements of this Chapter. "Insured" covers HUD-held in that a project mortgage was originated and insured under a multifamily section of the National Housing Act prior to going into default and being assigned to the Department.
  - H. Also included under "insured" are formerly coinsured loans that are now fully insured and are part of the Loan Management Branch's local inventory of properties.
  - I. Regulations published July 30, 1992 affect all HUD-associated housing. The coinsured inventory, though not serviced or managed by the Loan Management Branch, is subject to the provisions of this Chapter.

- J. A formerly insured project that is not assisted is not subject to the requirements of this Chapter, however, because HUD no longer exercises any

control over the project.

- K. Any insured projects developed with smoke detectors pursuant to the standard required under the Fire Administration Authorization Act of 1992 must, after development, continue to maintain the smoke detectors in good working order in accordance with the development requirement.

35-3. BASIC REQUIREMENTS.

- A. The Department believes that most of the units in the HUD universe may already be equipped with smoke detectors under requirements imposed by State or local codes or by fire or liability insurance carriers. This Chapter is not intended to pre-empt those requirements, but to require, at a minimum, one hard-wired or battery-operated smoke detector in proper working condition on each level of a rental dwelling unit assisted or insured by HUD. In the case of projects insured under Section 232 (mortgage insurance for nursing homes, intermediate care facilities, and board and care homes) or Section 242 (mortgage insurance for hospitals) of the National Housing Act, the minimum requirement is that each occupied room must include at least one smoke detector in proper working condition.

- B. The smoke detector must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by a hearing-impaired person, each bedroom occupied by a hearing-impaired person must have a visual alarm connected to and activated by the smoke detector installed in the hall.

- C. In the case of hearing-impaired persons, smoke detectors must have an alarm system, designed for hearing-impaired persons, in each bedroom occupied by such persons. However, properties insured under Sections 232 or 242 of the National Housing Act are not required to comply with this requirement, so long as the smoke detector is connected to a central alarm system that is monitored on a 24-hour basis, or otherwise meets industry standards.

35-4. CLARIFICATION ON WHAT CONSTITUTES A "LEVEL:"  
INSTRUCTIONS FOR BASEMENTS AND ATTICS.

- A. Smoke detectors are required in basements and attics only if these areas are used for living purposes. For example, a smoke detector must be installed in a basement or an attic that has been converted into a recreational room or sleeping area. If the basement of a multilevel unit is not used for living purposes but houses the furnace/water heater or laundry facilities, it is not necessary for a smoke detector to be installed on that level. Likewise, it is not necessary for a smoke detector to be installed in an attic that is used for non-living purposes such as a storage area or as a repository for the wiring for the unit.

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- B. Other structural variations may exist, such as a structure with a vestibule on the lower level, instead of a basement, where people enter, in which case a smoke detector is required. If in doubt whether a particular area constitutes a "level" requiring a smoke detector, owners/management should apply the "family living area" concept above in reaching a decision.

35-5. OWNERS' RESPONSIBILITIES.

- A. Owners are responsible for installing smoke detectors,

inspecting once a year to ensure that the devices are in proper working condition, and replacing batteries in the smoke detectors as necessary. (Some callers have inquired about what is meant by "installation," particularly in the case of a battery-operated device that is easily attached via an adhesive strip. Merely providing the device to the resident does not ensure actual physical installation and does not fulfill an owner's obligation in this area. In addition, HUD regulations, State law and/or local housing ordinances may specify a particular location for placement of the device, i.e., in a hallway adjacent to the bedrooms, which may not be common knowledge to residents.)

- B. Owners may wish to develop paperwork or certifications asking residents to acknowledge when the activities specified above have been performed.

- C. Owners/management are responsible for maintaining accurate records regarding smoke detector requirements. Owners/management are to keep records, tenant certifications, etc., on hand for three years and are to make them available upon request when HUD conducts a management review.
- D. The responsibilities of both owners and residents under the rule are clearly delineated. As residents would generally not have access to the information published in the rule or this handbook chapter, owners should inform residents of their responsibilities per paragraph 35-6.
- E. Since the July 30, 1992 rule imposes a mandatory requirement upon owners that

hearing-impaired persons be provided with a smoke detector and alarm system in their bedroom, it is an owner's responsibility to notify residents of the availability of such equipment. (Note that "hearing-impaired" is not defined in the final rule.)

- F. It is not practical for HUD to provide technical specifications concerning smoke detectors and alarm systems for hearing-impaired persons. Owners may wish to consult organizations familiar with equipment for hearing-impaired persons for advice on this issue.
- G. HUD is attempting to balance the need to protect residents from fire and the desire to keep owners' costs at a

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reasonable level. For that reason owners are allowed the discretion to install either battery-operated or hard-wired smoke detectors. However, smoke detectors for hearing-impaired persons must be permanently installed, i.e., hard-wired. The use of portable devices for hearing-impaired residents does not fulfill the minimum standard required under this Chapter. The possibilities of loss or improper use make portable detectors less reliable.

- H. Owners are advised that effective October 30, 1992 their compliance with smoke detector requirements will be monitored by the Department or Contract Administrator. Monitoring an owner's compliance with smoke detector requirements may be accomplished during the course

of an on-site project review, i.e., in conjunction with a physical inspection, management review or unit inspection. Existing forms may be utilized for this purpose. For example form HUD-9602, Multifamily Unit Inspection, has a separate entry for smoke detectors under the listing for "entire unit." On form HUD-9822, Physical Inspection Report, smoke detectors may be listed under item #35 left blank under "interior items inspected."

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I. Owners are informed that, in cases of noncompliance with the Department's smoke detector requirements, HUD or the Contract Administrator will follow procedures for corrective action outlined in Handbook 4350.5, "Subsidy Contract Administration and Field Office Monitoring." The procedures per Handbook 4350.5, paragraph 15-4 are incorporated here by reference.

35-6. RESIDENTS' RESPONSIBILITIES.

A resident's responsibility under the lease to maintain and care for the unit extends to not tampering with smoke detectors and ensuring that batteries are kept in place. Residents are also responsible for informing the owner of any problems with the smoke detectors, including the failure of the batteries, in the same manner that they are responsible for informing the owner of any malfunction or maintenance needs in their units.

35-7. FUNDING SMOKE DETECTORS.

Owners may fund the purchase and installation of smoke detectors and the cost of batteries, as well as the costs incurred to accommodate smoke detector

requirements for hearing-impaired residents, out of project income. If necessary, additional costs for the above items may be covered through Residual Receipts or if these funds are not sufficient, through the Reserve Fund for Replacements. (However, it is not in keeping with HUD's intent to entirely deplete the RFR, and in no case may the

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Reserve Fund for Replacements be used to install a hard-wired system, except for hearing-impaired residents.) For information regarding processing instructions for withdrawals, and authorization that may be required, please refer to Chapter 4, Reserve Fund for Replacements, and Chapter 25, Residual Receipts, of this handbook.

35-8. IMPACT OF STATE LAW AND/OR LOCAL HOUSING CODES AND ORDINANCES.

This Chapter is not intended to preempt local or State fire safety codes. The purpose of this Chapter is to set out a minimum standard for HUD-associated housing. To the extent that a local code has a stricter standard or requires a different type of smoke detector (e.g., hard-wired rather than battery-operated) or different location for the detector (e.g., in each bedroom rather than adjacent to bedrooms), the local code should be followed, as long as HUD's minimum standard that each unit contain a hard-wired or battery-operated smoke detector is met.

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